

In the
Indiana Supreme Court



IN THE MATTER OF THE)

APPROVAL OF LOCAL RULES)

FOR HOWARD COUNTY)

Case No. 34S00-12 10 -MS- 595

ORDER APPROVING AMENDED LOCAL RULE

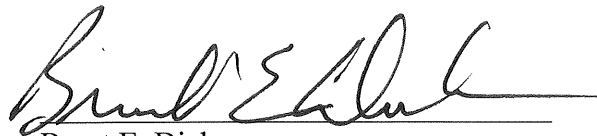
The Judges of the Howard Circuit and Superior Courts request the approval of an amended local rule for caseload allocation in accordance with Ind. Administrative Rule 1(E). Attached to this Order is the proposed amended local rule.

Upon examination of the proposed rule amendment requested by the Howard Circuit and Superior Courts, this Court finds that the proposed rule amendment, LR34-CR2.2-29 complies with the requirements of Ind. Administrative Rule 1(E), and, accordingly, should be approved and posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rule LR34-CR2.2-29 for Howard County Courts, set forth as an attachment to this Order, is approved effective January 1, 2013. The Clerk of this Court is directed to forward a copy of this Order to the Hon. George A. Hopkins, Howard Superior Court, 104 North Buckeye Street, Kokomo, IN 46901; the Hon. William C. Menges, Howard Superior Court 1, 104 North Buckeye Street, Kokomo, IN 46901-9004; the Hon. Lynn Murray, Howard Circuit Court, 104 North Buckeye Street, #310, Kokomo, IN 46901-9004; the Hon. Brant J. Parry, Howard Superior Court 2, 104 North Buckeye Street, #304, Kokomo, IN 46901-9004; the Hon. Douglas A. Tate, Howard Superior Court 3, 104 North Buckeye Street, #110, Kokomo, IN 46901-9004; to the Clerk of the Howard Circuit and Superior Courts; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Howard Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 11th day of October, 2012.

A handwritten signature in black ink, appearing to read "Brent E. Dickson", written over a horizontal line.

Brent E. Dickson
Chief Justice of Indiana

LR34-CR2.2-29

FILING CRIMINAL CASES

A. WEEKLY ROTATION: Beginning January 2, 2006, weekly rotation will be as follows:

1. Week # 1 - Circuit Court
2. Week # 2 - Superior Court II
3. Week # 3 - Superior Court IV

Weekly rotation thereafter will be from 12:01 a.m. Monday until twelve o'clock midnight Sunday each week.

The Clerk shall maintain a projected calendar for one year in advance showing the weekly rotation and shall in retrospect project a calendar for the previous one year and beyond if necessary for weekly rotation.

The weekly rotation calendar shall be public and posted in the Clerk's office and in each court participating in the weekly rotation.

B. FILING FELONIES: The court in which criminal charges shall be filed, other than as hereafter provided, will be the court on weekly rotation on the day on which the offense alleged in the charging document occurred with the following guidelines:

1. Where multiple offenses are filed, the date of the earliest offense alleged in the charging document shall control the rotation date.
2. In other cases where the date of the case is ambiguous, or covers a period of time, or is not otherwise specifically alleged, the controlling date will be the date that the Prosecutor's Office logged in the original complaint, case, report, or other notification of the alleged offense. The Prosecutor shall maintain a system of logging in cases which shall be open for reasonable inspection by the courts and members of the Bar.
3. In cases where the charges are drawn under IC 35-48, the cases shall be filed in Superior Court I. In the event of multiple counts, with charges drawn under IC 35-48, and other criminal statutes, the case shall be filed in the court which would otherwise be proper for the highest charged class of felony. Provided, however, in cases where the highest felonies are of the same class, the cases shall be filed in Superior Court I.

4. In cases where the charges are drawn under IC 35-46-1-15.1, IC 35-42-2-1.3, or, if the victim is or was the spouse of the accused, is or was living as the spouse of the accused, or has a child in common with the accused, under IC 35-43-1-2, 35-43-2-1.5, 35-43-2-2, 35-45-2-1, 35-45-2-2, 35-45-2-5 or 35-45-10-5 (all hereinafter collectively referred to as “domestic or family violence”), the cases shall be filed in Superior Court I. In the event of multiple counts, with charges involving domestic or family violence and other criminal statutes, the case shall be filed in the court which would otherwise be proper for the highest charged class of felony. Provided, however, in cases where the highest felonies are of the same class, the cases shall be filed in Superior Court I.

5. In case where the accused has a previously filed and pending felony charge(s), and is charged with one or more subsequent felony charge(s), the subsequent case shall be filed in the court in which the previously filed case is pending. If the previous charge(s) is no longer pending at the time the subsequent charge(s) is filed, the subsequent charge(s) shall be filed in the court as designated by the weekly rotation schedule in section A. The previous charge(s) will be considered pending if the State filed the charge(s) and the court has not entered a dismissal or judgment of conviction or acquittal of the pending charge(s)

C. SUPERIOR COURT III: This court will be the court in which misdemeanors, other than those referred to in B(3) or B(4) hereof, and Class D felonies involving the operation of a motor vehicle are filed, with the following qualifications:

1. A misdemeanor charge which is filed contemporaneous with a felony charge against the same individual will be filed in the court where the felony charge is filed.
2. Where a defendant has a pending misdemeanor charge and a subsequent felony charge is filed, the misdemeanor charge will remain in Superior Court III, or with the consent of the accused, the Prosecutor, and the Judge of the Superior Court III, may be transferred to the court having the felony case under Transfer of Action, Local Civil Rule 3.

D. CHANGE OF JUDGE: Where there has been a change of venue granted, the Clerk shall select the new court by random selection from the other four (4) Howard County Courts.

After selection, the cause may then be reassigned to the new court by transfer under Local Civil Rule 3.

E. TIME FOR OBJECTION: Any party may file a written objection to an alleged violation of this rule. Upon a finding that the charge(s) were improperly filed, the court where the charge(s) were originally filed shall transfer the charge(s) to the proper court without the necessity of obtaining consent from the receiving court. Any such objection shall be deemed waived unless filed on or before thirty (30) days after the Omnibus Date; however, upon a showing of good cause and in the interest of justice, the court may permit the filing of the objection any time before the commencement of trial.